

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

GINNGEE'S SEWING ALTERATIONS
& LAUNDROMAT

VS

No. 07-0363

ILLINOIS ENERGY SAVINGS CORP.,)
d/b/a U.S. ENERGY SAVINGS CORP.)

Complaint as to billing/)
charges in Sheridan, Illinois.)

Chicago, Illinois

October 10, 2007

Met pursuant to notice at 10:00 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES :

MS. VIRGINIA ALDERSON
230 West Sheridan Avenue
Sheridan, Illinois 60551
appeared pro se;

LOWIS & GELLEN, LLP, by
MR. ETHAN F. HAYWARD
200 West Adams Street
Chicago, Illinois 60606
appeared for Illinois
Energy Savings Corp.

SULLIVAN REPORTING COMPANY, by
Teresann B. Giorgi, CSR

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| 1 | | <u>I</u> | <u>N</u> | <u>D</u> | <u>E</u> | <u>X</u> | | | |
| 2 | | | | | | | Re- | Re- | By |
| 3 | <u>Witnesses:</u> | <u>Dir.</u> | <u>Crx.</u> | | <u>dir.</u> | <u>crx.</u> | | | <u>Examiner</u> |
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1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket 07-0363.
3 This is a complaint by Ginnggee's Sewing Alterations
4 & Laundromat versus Illinois Energy Savings Corp.,
5 d/b/a U.S. Energy Savings Corp, as to billing and
6 charges in Sheridan, Illinois.

7 And at this time -- you're
8 Mr. Alderson?

9 MR. ALDERSON: Yes.

10 JUDGE RILEY: And you are appearing pro se?

11 MR. ALDERSON: Yes.

12 JUDGE RILEY: Without Counsel.

13 MR. ALDERSON: Correct.

14 JUDGE RILEY: And you are Ms. Alderson?

15 MS. ALDERSON: Yes.

16 JUDGE RILEY: Okay.

17 Counsel, you are appearing on behalf
18 of U.S. Energy?

19 MR. HAYWARD: Yes, sir.

20 JUDGE RILEY: Would you enter an appearance for
21 the record, please, stating your name and your
22 office address.

1 our supplier, we couldn't. We were stalled and
2 delayed and threatened, et cetera.

3 JUDGE RILEY: Okay. Let me start things off.

4 DALE ALDERSON

5 called as a witness herein, and after having been
6 first duly sworn, was examined and testified as
7 follows:

8 EXAMINATION

9 BY

10 JUDGE RILEY:

11 Q It's my understanding from the complaint
12 that you had signed a contract with the Respondent
13 on June 28th, 2005, for gas service.

14 A Correct.

15 Q U.S. Energy was to be your gas supplier, is
16 that your understanding?

17 A Correct.

18 Q And that you called some days later,
19 roughly around the middle of July --

20 A I believe it was July 16th.

21 At the time on the contract there was
22 a clause in there that said we had three business

1 days if we wanted to cancel. And in that clause it
2 says "for residential customers only," and this
3 wasn't for residential use, this was for business.
4 So, I don't know if that pertains to anything or
5 not.

6 Q Where in the contract are you referring?

7 For the record, I'm sorry, you are
8 Dale Alderson, is that correct?

9 A Yes.

10 JUDGE RILEY: And you are Virginia Alderson.

11 MS. ALDERSON: Virginia.

12 JUDGE RILEY: All right. Thank you.

13 MR. ALDERSON: It would probably be towards --
14 almost halfway in between --

15 MS. ALDERSON: After the signature.

16 MR. ALDERSON: Yes, after the signature, where
17 it says, Customer's Right to Cancel, it says "for
18 residential customers only." And then as you read
19 along that line, the last line says, See the
20 enclosed notice of cancellation form for an
21 explanation of this right.

22 At this time -- or at the time we

1 signed this, we never got an enclosed notice of any
2 kind. It was just this one document.

3 JUDGE RILEY: Q Now, had you ever asked them
4 for that enclosed notice or --

5 A Yes. When Mr. Rickard, I believe his name
6 is, Rickard, had approached us on this, at the time
7 we wanted to get a little more information on this
8 before we agreed to this. And I believe he had
9 stated that he would send us something in the mail,
10 more information on this in the mail, which we never
11 received. He said we had to sign this before he
12 could send us anything. It was signed and we never
13 received anything after that.

14 Q Now, let me go back and get a little
15 background here.

16 Did you approach U.S. Energy Savings
17 or did they approach you about this service?

18 A They approached us.

19 Q They solicited you.

20 A Yes.

21 Q And who was it that solicited you, do you
22 remember?

1 A His name was Mike Rickard, last name
2 spelling is R-i-c-k-a-r-d.

3 Q And what do you recall that he represented
4 or said to you?

5 A At this point I would like to let my wife
6 speak on that one, if she could.

7 Q Okay. So, then your answer is, you're
8 not -- in other words, Mr. Rickard did not approach
9 you --

10 A No.

11 Q -- he contacted Mrs. Alderson.

12 MS. ALDERSON: Yes.

13 JUDGE RILEY: All right.

14 Q Mr. Alderson, what else did you want to
15 testify to there?

16 A I have records showing that we had
17 continuously tried to call U.S. Energy to cancel
18 this agreement and we would get put on hold. And
19 somewhere along the line we'd get disconnected.

20 Counsel had sent us some of their --
21 copies of their exhibits that they were going to
22 show today. Some of them were disks, computer disks

1 that showed the conversations that we had had. And
2 through those conversations, again, they would just
3 put us on hold and we would get disconnected and
4 they knew we wanted to cancel this agreement.

5 And it finally got to a point that
6 before they would do anything to try and cancel this
7 with us, that I would not -- you know, I would not
8 pay the supply bill, period.

9 Q Just by way of a little more background.

10 You are the co-owner of this
11 Ginnggee's --

12 A Yes.

13 Q -- Sewing --

14 A Me and my wife both own this and nobody
15 else.

16 Q All right. How long have you owned it?

17 A Since March of 2004.

18 Q And then the actual account holder is the
19 business, is that correct?

20 A Yes.

21 Q What, in the contract or anything else that
22 you came across after you had entered into the

1 contract, lead you to believe that you can cancel
2 it?

3 I might not have made that terribly
4 clear.

5 In other words, you entered into a
6 contract for service with U.S. Energy?

7 A Right.

8 Q Very shortly thereafter you decided you did
9 not want to continue in the contract --

10 A Correct.

11 Q -- and you called them to cancel it.

12 A Yes.

13 Q On what basis did you make that decision?
14 Was there something in the contract specifically
15 that you saw?

16 A No. As time went on, I had felt that we
17 had just made a bad mistake. Because when
18 Mr. Rickard first approached us on this, he had said
19 that -- how he could save us money with them
20 supplying -- with U.S. Energy supplying our gas
21 versus what Nicor -- the cost of what Nicor would
22 deliver to us, and that was not so.

1 We have side-by-side comparisons to
2 show that, in fact, our rates were more with
3 U.S. Energy than what they were with Nicor. And
4 that's why I feel they misrepresented themselves to
5 us. Obviously, we don't want to pay the higher
6 price of gas. They told us that they could do that
7 over Nicor.

8 Q Now, between the time that you entered into
9 the contract -- and you said you made your first
10 attempt to cancel was -- you said you believe it was
11 July 16, 2005?

12 A Yes.

13 Q Had you gotten any kind of a statement or a
14 bill from U.S. Energy?

15 A On cancelling?

16 Q No. To indicate that the rates were that
17 much higher?

18 A Yes. It showed on our stub.

19 I believe, like, the first six months
20 of our bills with U.S. Energy, they were lower, but
21 after that six months, they were considerably
22 higher.

1 Q Then why did you want to cancel it on
2 July 16 when you had only signed the contract about
3 19 days earlier?

4 A Because I felt we had made a mistake.

5 Q Was there anything more specific than that
6 or was it just some kind of a gut instinct?

7 A Pretty much. And plus, we had never
8 received any information after this agreement as per
9 what Mr. Rickard had stated he would do for us.

10 You know, again, when he approached us
11 with this, we had asked for more information on it.
12 And he said he would deliver that to us or have that
13 sent to us after we had agreed to it. And we never
14 received anything.

15 Q So what you're saying, your gas bill was
16 actually a little lower than Nicor for the first six
17 months?

18 A Yes.

19 Q And then it increased?

20 A Considerably.

21 Q Do you have gas bills that show that?

22 A I have side-by-side chart comparisons that

1 would show what we paid U.S. Energy versus what we
2 would have paid Nicor.

3 Q All right. If you want to present that at
4 this time.

5 MR. HAYWARD: If I could be of assistance.

6 U.S. Energy provided a similar
7 spreadsheet to the Court and to the Petitioner's as
8 their own Exhibit G, if they do have a copy of that
9 with them.

10 THE WITNESS: Here it is (indicating).

11 JUDGE RILEY: Counsel, this is what I understand
12 that you were just referring to that was supplied by
13 the Respondent?

14 MR. HAYWARD: I believe so.

15 JUDGE RILEY: Q And was this provided to you by
16 the --

17 A Yes.

18 Q -- by the gas company?

19 Let the record reflect that the
20 document that the Complainant has just tendered, was
21 actually, in fact, furnished to all the parties and
22 to the Administrative Law Judge by the Respondent.

1 And it's a chart of some type that contains the
2 dates of service, quantity and therms, the amounts
3 billed, the days in the period, the average daily
4 consumption, and some additional statistics.

5 Is it your testimony, then, that this
6 purports to show how your bills increased from the
7 time you had obtained service from U.S. Energy?

8 A Yes.

9 Q All right. And is it correct to say -- is
10 it your understanding that the column labeled,
11 ESG, that has the dollar amounts in it --

12 A On the far right-hand side?

13 Q No, no. The column labeled, ESG, it's
14 almost in the center of the page.

15 A Yes.

16 Q And comparing that to the column near the
17 far right where it says, NI bill --

18 A That's what Nicor's cost would have been.

19 Q And this is the comparison that you're
20 pointing out, then, is that correct?

21 A Yes.

22 Q Beginning with the period July 27, 2005,

1 through August 23, 2005, the Respondent's billing
2 were anywhere from -- for that period, anyway, were
3 \$42.07 higher than Nicor's, is that correct?

4 A Correct.

5 And then the following six months --

6 MS. ALDERSON: The previous.

7 THE WITNESS: No, it would be -- after
8 7-27-05 --

9 MS. ALDERSON: Okay.

10 THE WITNESS: -- the following six months,
11 U.S. Energy's rates were lower than Nicor's. And
12 then after that, starting -- it would be
13 February 23rd of 2006 from there on, U.S. Energy's
14 rates were higher than Nicor's.

15 JUDGE RILEY: Q And U.S. Energy lead -- did
16 U.S. Energy lead you to believe that the rates at
17 all times would be lower than Nicor's?

18 A Yes.

19 Q That was your understanding from the
20 beginning?

21 A Yes.

22 MS. ALDERSON: Uh-hum.

1 THE WITNESS: We were locked in -- they stated
2 that they would lock us in at -- I think it was
3 87.5 cents per therm -- yes, 87.5 cents per therm.

4 JUDGE RILEY: Q And do you, in fact, know that
5 you were charged different than 87.5 cents per
6 therm?

7 A No, it stated "87.5." But, my contention
8 is that when -- again, when we were first
9 approached, Mr. Rickard had stated that, Yes, our
10 rates would be lower than Nicor's, we can save
11 money, et cetera, et cetera. And Nicor's rates were
12 going to go up, therefore, you should go with us,
13 U.S. Energy, as your supplier.

14 Q All right. Are there any other documents
15 that you would offer to show in support of your --

16 A Defendant has also sent us copies of --
17 when we tried to cancel our agreement, we also
18 received documents from John Schaub of the ICC, that
19 confirms we tried calling U.S. Energy to try and
20 cancel.

21 JUDGE RILEY: Ms. Alderson, you can confer with
22 Mr. Alderson, but you can't testify yet.

1 MS. ALDERSON: I'm sorry.

2 JUDGE RILEY: That's okay.

3 THE WITNESS: We started out with an informal
4 complaint that we never got a response to, which
5 lead to the formal complaint.

6 JUDGE RILEY: Q Let me see, your informal
7 complaint with the ICC has not been fully resolved
8 then.

9 A No.

10 Q There's been no disposition, in other
11 words.

12 A Correct.

13 Q What is it you have there?

14 MS. ALDERSON: Just the stuff --

15 JUDGE RILEY: I haven't sworn you in, yet.

16 MS. ALDERSON: I'm sorry.

17 JUDGE RILEY: Q Mr. Alderson, can you identify
18 that?

19 A This (indicating)?

20 This is transcripts from Mr. John
21 Schaub with the ICC, confirming all the dates and
22 contacts when we tried to call U.S. Energy to talk

1 to them. Mr. Schaub had tried contacting them,
2 et cetera.

3 Q And did Mr. Schaub prepare that, to your
4 knowledge?

5 A Yes.

6 Q And do you know where he obtained that?

7 A His records.

8 Q So, you don't know if it came off of a tape
9 of some kind, or a -- are these recordings of phone
10 conversations

11 MS. ALDERSON: His notes.

12 THE WITNESS: Notes. His notes, I believe.

13 JUDGE RILEY: Q These are Mr. Schaub's notes,
14 as you understand it.

15 A Yes.

16 Q And he sent those to you?

17 A Yes (indicating).

18 Q It would be more accurate to say he faxed
19 them to you.

20 It's my understanding then that what
21 Mr. Schaub has recorded here is, simply, what he
22 understood his conversations to be with you?

1 A Yes.

2 Q These are just notes of his conversations.

3 They're not the actual transcript, then. Okay.

4 A Correct.

5 MR. HAYWARD: Your Honor, if I could. I

6 apologize for interrupting.

7 May my witness be excused from the

8 room to get a drink of beverage?

9 JUDGE RILEY: Certainly.

10 (Short pause.)

11 JUDGE RILEY: Q I notice that you look like you

12 have a number of bills --

13 A Yes.

14 Q -- that you had brought with you.

15 A Yes.

16 Q Are these bills from U.S. Energy?

17 A Yes, the stubs. Well, they're Nicor, but

18 we get our supply bill from U.S. Energy through

19 Nicor.

20 Q Understood.

21 A We pay Nicor -- we get our supply from --

22 we're receiving our supply from U.S. Energy and all

1 the other costs were through Nicor.

2 Q Okay. And U.S. Energy obtains its supply
3 from Nicor, is that correct, is that your
4 understanding?

5 A Its supply?

6 Q Gas supply.

7 A I don't know. Were they?

8 Q But the bill comes from Nicor and it
9 contains --

10 A U.S. Energy's supply.

11 Q Exactly. Okay.

12 A Yes.

13 Q And the period we're talking about now is
14 June 28, 2005, through approximately, what, April of
15 2007 -- or are you still customers of U.S. Energy
16 now?

17 A No. We are now -- we now currently get our
18 supply from Nicor, which started, I believe, it was
19 in April when we first started receiving our supply
20 from Nicor.

21 Q Okay.

22 Let's take a look at the bills and see

1 if on there it doesn't indicate when U.S. Energy
2 finally disappeared.

3 A That would be on -- well, this is 2007.
4 Did you want --

5 Q Let me take a look (indicating).

6 Could you show me where on these
7 bills -- here's one, it says January 22. Where does
8 it say U.S. Energy on there?

9 A On the supply?

10 Q Anywhere on here at all that it would
11 reference U.S. Energy?

12 A Well, it says, Gas supply cost.

13 Q No, I'm looking for the word printed on
14 here, U.S. Energy -- U.S. Energy Savings Corp.

15 Right there in bold --

16 A Yes.

17 Q So even as up through April 16, U.S. Energy
18 Corp., had a gas supply cost here.

19 A Yes.

20 Q Do you have a bill subsequent to April 16,
21 any of the stubs?

22 A I have -- let's see, this is June. This is

1 where it shows the credit that they had --

2 Q From what I notice, the bold face
3 U.S. Energy Corp., is not on that bill stub.

4 A Because at this point we were receiving
5 our --

6 Q That's what I was trying to determine, what
7 date U.S. Energy stopped billing you.

8 A I do have a notice on here. If you'd give
9 me just a minute to look it up, it will show when
10 our agreement was -- yes, here it is (indicating).

11 Q I'm sorry, go ahead. What document are you
12 looking at there?

13 A This is a copy of a document that we had
14 received from U.S. Energy and it states, This is to
15 inform you that the natural gas price protection
16 program agreement between you and U.S. Energy in
17 respect to the above-mentioned account has been
18 cancelled. And it's dated Friday, April 27th of
19 this year.

20 JUDGE RILEY: And let the record reflect that
21 this is also labeled Defendant's Exhibit F.

22 THE WITNESS: That's correct.

1 JUDGE RILEY: Q And this was a document that
2 was sent to you by Respondent's counsel, is that
3 correct?

4 A Yes. And somewhere in all of this mess, we
5 had also received the original document from
6 U.S. Energy on this, too. I don't know if you want
7 to see that.

8 Q No, this has all been submitted.

9 A Oh, okay.

10 Q Did you understand that at the time you
11 signed the contract, or at the time that Ginngée's
12 Sewing Alterations had entered into the contract,
13 that it was a five-year contract?

14 A Um --

15 Q Or did you know that it was for a set term?

16 A I believe it was for a set term. But,
17 again, we wanted more information on it. And the
18 only way we could have received more information on
19 it was to go ahead and sign this.

20 Q Going back to the contract itself, again.
21 I believe I asked this before, I'm not 100 percent
22 sure what your answer was. Was there something in

1 the terms of the contract, either on the front page
2 or what we term the boiler plate, that lead you to
3 believe you could cancel the contract after you had
4 signed it, within a certain period of time?

5 A Well, again, on the contract itself it
6 stated within three days from the time we entered
7 into the agreement, but that was for residential
8 customers only. And since we are a business, it
9 didn't say anything on that. It just said, See the
10 enclosed notice of cancellation for an explanation
11 of this right. And we never received any other
12 notice, you know, in regards to this. It doesn't
13 have any information of what kind of a grace period
14 we have.

15 Q In other words, it did not limit a business
16 to the three-day deadline for cancellation.

17 A Now, what I see here under -- well, I'm not
18 sure if this would pertain to the matter or not, one
19 of the paragraphs in here says, The term of this
20 agreement commences on the date of first gas flow
21 under this agreement, or if this agreement is
22 unilaterally cancelled before the first gas flow,

1 which will be approximately 15 to 90 days after --

2 Q But this is something that you understand
3 now. Was this something that you knew prior to
4 that --

5 A No. No.

6 Q What your testimony is then, is that the
7 three-day deadline for cancellation applied to
8 residential customers only and it said nothing about
9 business customers, is that correct?

10 A Correct.

11 JUDGE RILEY: I don't have any more questions
12 for you at this time, Mr. Alderson.

13 THE WITNESS: Once --

14 JUDGE RILEY: Q Go ahead.

15 A Earlier this year after we had filed the
16 formal complaint, we had received a call from, I
17 believe her name was, Grace in the billing
18 department at U.S. Energy. And she had stated that
19 if we wanted to drop our complaint with the ICC,
20 that she would remove any supply costs and the
21 disconnect fee, which was 1800 and some odd dollars,
22 I can't remember exactly, which was the disconnect

1 fee. I had told her over the phone that we would
2 agree to that, which is the reason why we were not
3 here at the first status hearing. Yes, \$1854.57,
4 which is what would have been the disconnect fee.

5 Again, that's the reason why we were
6 not here at the first status hearing, because we
7 were under the impression that this was getting
8 settled.

9 What I had received, a statement back
10 in June, was that the current supply bill that we
11 had owed them at the time was 1556, and it shows as
12 a credit. And we never did receive a disconnect fee
13 from them at all.

14 Q Okay.

15 A Once we switched back to Nicor, we have
16 never received any kind of a final bill.

17 Q Do you have any sum pending that you owe
18 U.S. Energy right now?

19 A Well, they're saying that we still owe them
20 a supply cost of \$1,556.58. And that is what I was
21 under the impression that Grace was crediting us for
22 if we did not pursue our formal complaint with them.

1 Q What's the exact sum you read there?

2 A \$1,556.58.

3 Q 1556.58?

4 A Yes.

5 Q All right. Is there any other sum that's

6 due? Was there a disconnection fee?

7 A We never received a disconnect fee.

8 As I just previously stated, once we

9 switched back to Nicor, we never received any kind

10 of a final bill for the supply cost, or the

11 disconnect fee.

12 Q Now, are you contesting that you owe that

13 \$1556.58?

14 A Yes.

15 Q And this is based upon the fact that they

16 did not disconnect you when you requested

17 disconnection?

18 A No.

19 Q I should say, they did not switch your

20 service or cancel the contract when you requested

21 cancellation.

22 A No, it was -- we were under the impression

1 that Grace, from the legal department of
2 U.S. Energy, was going to waive that if we dismissed
3 our complaint, formal complaint, with the ICC with
4 them, that they would waive the supply cost and
5 waive the disconnect fee.

6 And on this billing stub that's dated
7 from back in June, it shows the credit on here.
8 And, again, we never received any other final bill
9 from them after that.

10 Q Do you have Grace's full name?

11 A No. She only identified herself as Grace.

12 Q Did she identify herself as an attorney for
13 the corporation, or for the --

14 A She was with the legal department with
15 U.S. Energy.

16 Q All right. Did she give you anything in
17 writing to confirm that offer of a waiver?

18 A No, this was just a verbal agreement over
19 the phone.

20 JUDGE RILEY: Okay. As I said, at this time I
21 don't have any further questions for you, Mr.
22 Alderson, although, I may be getting back to you

1 before I swear in Ms. Alderson for some questions.

2 Counsel, did you have any

3 cross-examination for Mr. Alderson?

4 MR. HAYWARD: Not at the moment, sir -- just to
5 clarify.

6 CROSS-EXAMINATION

7 BY

8 MR. HAYWARD:

9 Q Sir, you were not present when Ms. Alderson
10 executed this contract, were you, sir?

11 A No, I was not.

12 Q Were you privy to any conversations that
13 she had with Mr. Rickard at all?

14 A Yes. She informed me of being approached
15 by him, et cetera.

16 Q Were you there when those two spoke
17 together?

18 A No, I was not.

19 MR. HAYWARD: Your Honor, may I reserve the
20 right to question this witness later?

21 JUDGE RILEY: Certainly.

22 MR. HAYWARD: Thank you.

1 I don't have any more questions at
2 this time.

3 JUDGE RILEY: Thank you.

4 (Witness excused.)

5 JUDGE RILEY: Ms. Alderson, I'm going to swear
6 you in and ask some questions of you in just a
7 moment. I'm going to take just a brief recess.

8 (Whereupon, a short
9 recess was taken.)

10 JUDGE RILEY: Okay. We're back on the record.
11 And at this time I would like to question
12 Ms. Alderson with regard to her knowledge of the
13 events regarding this contract.

14 (Witness sworn.)

15 VIRGINIA ALDERSON,
16 called as a witness herein, and after having been
17 first duly sworn, was examined and testified as
18 follows:

19 EXAMINATION

20 BY

21 JUDGE RILEY:

22 Q Were you the individual who was actually --

1 did you either solicit or were solicited by
2 U.S. Energy?

3 A I was solicited.

4 Q Was this by phone?

5 A They came into my business.

6 Q Personally.

7 A Yes.

8 Q Do you remember the name of the individual
9 who you spoke to?

10 A It's Mike Pickard (sic).

11 Q Do you have the name there?

12 A Yes, it's Mike Pickard. And I have a -- I
13 guess, it's the badge number.

14 Q Mike -- spell the last name, if you can.

15 A P-i-c-k-a-r-d.

16 Q Was he with anyone?

17 A No.

18 Q What did he say to you?

19 A He had came in and he had introduced
20 himself as U.S. Energy, subsidizing small
21 businesses -- to help small businesses and new
22 businesses with the rising cost of gas. And I --

1 you know, U.S. Energy -- I can't remember if I had
2 asked or not, but with a name of U.S. Energy I had
3 thought it was some help from the government.

4 Q Okay.

5 A Helping with the rising costs, especially a
6 laundromat.

7 And he wanted me to sign right then
8 and there. And I'm like, you know, I don't do
9 anything without my husband's approval. My husband
10 handles all my finances. I do all the work. I run
11 a laundromat as well as I do alterations, repairs, I
12 do drop off laundry, I do pressing services, drop
13 off dry cleaning. I've got customers in and out all
14 day long. So, finances -- I collect the money, he
15 handles paying the bills. So, it's just way too
16 much for me to handle.

17 Q All right. So, you did not at that time
18 sign a contract.

19 A I didn't believe I was signing a contract.
20 I asked for paperwork. I kept telling him, I need
21 paperwork. You show me something. And, you know,
22 Can you leave this with me, you know, any pamphlets,

1 any paperwork to show my husband? And at that point
2 in time with reports in the newspapers and
3 everything, it's a very small business, and with the
4 rising cost of gas, I was scared to death.

5 Q All right. I'm going to show you what has
6 been premarked as Defendant's Exhibit B. And taking
7 a look at each one of these documents, stapled
8 together, I believe there's five pages altogether,
9 would you look at that and tell me, is that an
10 accurate Photostat of what you were given by
11 Mr. Pickard?

12 A I was given this paper (indicating).

13 Q The front page.

14 A And the rest was supposed to arrive in the
15 mail.

16 Q So, you only had the one-page document, is
17 that correct?

18 A Yes.

19 Q And you did not believe that by putting
20 your signature on there at that time you were
21 signing a contract?

22 A I was told that that is the only way I can

1 get paperwork to show my husband.

2 Q All right.

3 So, none of the other documents that
4 are attached --

5 A I didn't receive those until --

6 Q Okay. You did not receive those at the
7 time.

8 A Right.

9 Q It was just this front page (indicating)?

10 A Yes.

11 Q All right. Did Mr. Pickard actually tell
12 you, to your recollection, that you were not signing
13 a contract, or did he say you were signing a
14 contract?

15 A I don't recollect. I just kept insisting I
16 have to have paperwork before I sign any contract.
17 I do remember a lot of customers coming in at the
18 time as well.

19 Q I'm sorry?

20 A I remember a lot of customers coming in at
21 the time as well.

22 Q And after you had signed this document, did

1 you thereafter recall receiving bills from Nicor
2 with U.S. Energy on them?

3 A After that? They started in August of
4 2005.

5 Q And do you have a bill there from August --
6 dated August?

7 A Yes. Yes, I do (indicating).

8 Q And is this the first document that you
9 have to show a supplier of U.S. Energy Corp.?

10 A Yes. This is the July bill, and this is
11 the June bill (indicating).

12 Q All right. We'll get back to this later.
13 Hang on to those.

14 A Okay.

15 Q Did this individual you spoke to,
16 Mr. Pickard, or Rickard, ever tell you -- actually
17 say to you that he was a representative of
18 U.S. government?

19 A As I said, there were customers coming in
20 and out. It's been two years, almost three. I
21 have -- I was under the assumption that he was
22 representing -- it was a government subsidizing the

1 small businesses for the -- and new businesses, we
2 were very new into business.

3 JUDGE RILEY: Well, at this time I don't have
4 anything further for Ms. Alderson.

5 Counsel, did you want to
6 cross-examine?

7 MR. HAYWARD: Yes, your Honor.

8 CROSS-EXAMINATION

9 BY

10 MR. HAYWARD:

11 Q Ms. Alderson, do you have a copy of the
12 contract in front of you --

13 A Yes.

14 Q -- our Exhibit B?

15 Now, you indicated earlier that it was
16 your impression that this was not any type of
17 contract, only a request for further information?

18 A Uh-hum.

19 JUDGE RILEY: You have to say "yes."

20 THE WITNESS: Yes.

21 MR. HAYWARD: Q If you would bear with me for a
22 moment, I'll ask you to read along that first full

1 paragraph there.

2 Will you agree with me that it reads,
3 from the first line down to about the second line,
4 The account holder noted below, the Customer, hereby
5 appoints Illinois Energy Savings Corp., doing
6 business as U.S. Energy, as the Customer's sole and
7 exclusive agent --

8 A Excuse me, where is that?

9 Q The very first paragraph.

10 A Okay.

11 Q I can read the whole paragraph over.

12 A Okay.

13 Q That second full sentence, The Customer has
14 received from USESC the Customer Agreement and a
15 copy of this Customer Registration, together, the
16 Agreement. The customer acknowledges having read
17 the Agreement and all of its terms and conditions,
18 including those related to liquidated damages,
19 understands the nature and content thereof, and
20 agrees to be bound thereby.

21 Now, did you read any of this at all
22 before filling any of this in?

1 A Well, the only thing that is filled in by
2 my handwriting is my name.

3 Q I understand that. But, did you read any
4 of this?

5 A As I stated, I had customers -- I remember
6 customers coming in quite frequently and it's --

7 Q With all due respect, ma'am, I mean, it's a
8 "yes" or "no" question.

9 Did you read this language at all?

10 A I don't recall.

11 Q Now, would you agree that the next full
12 sentence says, If the Agreement is being signed on
13 behalf of a Customer, has read the Agreement and
14 agrees to purchase -- and represents that he/she has
15 the authority to bind the Customer.

16 JUDGE RILEY: I lost you on that one, Counsel.

17 I'll read it.

18 If the Agreement is being signed on
19 behalf of a Customer, the undersigned represents
20 that he/she has the authority to bind the Customer.

21 MR. HAYWARD: I apologize, you're right. I
22 skipped a line there.

1 JUDGE RILEY: Continue.

2 MR. HAYWARD: I apologize.

3 Q Now, you would agree that it says that?

4 A Yes, I agree it says that.

5 Q So, it's your contention that you were not

6 aware that this was an agreement at all, or any type

7 of contract.

8 A I was told that -- no -- yes.

9 I don't understand the question.

10 JUDGE RILEY: Okay.

11 MR. HAYWARD: If I could.

12 JUDGE RILEY: Sure.

13 MR. HAYWARD: Q Ms. Alderson, you do

14 acknowledge filling out this information and signing

15 this, correct?

16 A I acknowledge signing my name.

17 Q But you don't recall whether or not you

18 read that first paragraph as I read it back to you

19 just now.

20 A No, I don't recall.

21 Q But when signing this, it was -- was it

22 your impression that this was a contract that you

1 were executing?

2 A When signing this, I was under the
3 impression that I was signing for paperwork to be
4 sent to me.

5 Q Thank you.

6 A Can I --

7 JUDGE RILEY: Hold on a minute. Let me ask a
8 question here.

9 At the time you placed your signature
10 on this document -- let me confirm, this is your
11 signature here, is that correct (indicating).

12 THE WITNESS: Yes.

13 JUDGE RILEY: -- were any of these other terms
14 filled out? Was any of the other information on
15 this contract -- on this document, if you recall?

16 THE WITNESS: None of this is filled out by me,
17 just my signature. I don't -- no, it wasn't filled
18 out.

19 JUDGE RILEY: You're sure of that.

20 THE WITNESS: I'm positive of that.

21 JUDGE RILEY: So, it's your testimony then that
22 at the time you placed your signature on the upper

1 left corner, on the line here, where it says,
2 Position of Signatory for businesses --
3 THE WITNESS: Yes.
4 JUDGE RILEY: -- that none of this other
5 handwriting was on this document.
6 THE WITNESS: No.
7 JUDGE RILEY: In other words, it was a blank --
8 the --
9 THE WITNESS: It was blank. I was supposed to
10 get paperwork.
11 JUDGE RILEY: All right. So, you were signing
12 just to get additional information, correct?
13 THE WITNESS: Right.
14 JUDGE RILEY: All right.
15 And this is what Mr. Pickard had said
16 to you, that the only way that you could get
17 additional information with regard to this program
18 was to sign this document?
19 THE WITNESS: Yes.
20 JUDGE RILEY: All right.
21 Again, Counsel, I have no further
22 questions.

1 Any further cross?

2 MR. HAYWARD: Just momentarily.

3 Q The attachments to the sheet that you
4 filled out, was that provided to you at the time
5 that you executed this?

6 A No.

7 Q It was not.

8 So, even though it indicates in that
9 first paragraph that you had read over the
10 Agreement, the Agreement was not provided to you?

11 A No.

12 MR. HAYWARD: Your Honor, if I could ask a few
13 more questions. For purposes of this examination, I
14 would represent that in each sales call U.S. Energy
15 executes what's called a confirmation call, wherein
16 the representative and the customer speak to another
17 customer -- I'm sorry, another operator, for
18 purposes of enrolling the customer in the program.

19 I would ask if I could play that
20 recording at this time?

21 JUDGE RILEY: Okay. Hold on a minute.

22 Which one of these is it?

1 MR. HAYWARD: It would be Defendant's Exhibit J,
2 your Honor.

3 JUDGE RILEY: Okay. I've listened to all four
4 of those. Counsel, I've got a real problem with
5 these tape recordings.

6 Were copies of these disks provided to
7 the Complainant?

8 MR. HAYWARD: Yes, sir.

9 JUDGE RILEY: They are.

10 Do you have those?

11 MR. ALDERSON: Yes.

12 JUDGE RILEY: I'm sorry, I'll ask you.

13 Mr. Alderson, I'll ask you, have you listened to
14 them?

15 MR. ALDERSON: Yes.

16 JUDGE RILEY: You have.

17 MR. ALDERSON: I've tried. They're kind of
18 faint, but -- I mean, if you're in a quiet room --

19 JUDGE RILEY: Right. Okay.

20 Were you able to understand the gist
21 of the conversation, or the gist of what's on that
22 tape -- I should say the disk, I'm sorry, when you

1 did play it? It sounds like whatever medium you're
2 using to play it is giving you the difficulty. I've
3 listened to this disk also, to the recording, and it
4 does come through. There are some inaudible
5 moments, but --

6 MR. ALDERSON: Excuse me. Your question, again?

7 JUDGE RILEY: Were you able to understand,
8 essentially, what was on it?

9 MR. ALDERSON: What I could hear, yes.

10 JUDGE RILEY: And you said, again, this is the
11 one that's marked Exhibit J?

12 MR. HAYWARD: Yes, sir.

13 JUDGE RILEY: I've listened to it. Complainant
14 has listened to it.

15 MR. HAYWARD: Okay.

16 I would ask whether Mrs. Alderson has
17 listened to it, since she participated in the call?

18 JUDGE RILEY: Ms. Alderson?

19 THE WITNESS: Yes.

20 JUDGE RILEY: You have listened to it, also.
21 And did you understand what was on there?

22 THE WITNESS: Yes.

1 JUDGE RILEY: Okay.

2 Counsel, I don't see any need to go
3 back through and play it. It would be just a
4 question of moving for its admission.

5 MR. HAYWARD: I would move to admit it. And I
6 would represent that during that conversation,
7 Mrs. Alderson indicated her understanding that she
8 was enrolling in a program whereby her business' gas
9 rates would be fixed at a rate of 87.5 cents per
10 therm for a period of five years.

11 JUDGE RILEY: Okay. Ms. Alderson, is it your
12 understanding that that's -- from having listened to
13 that recording?

14 THE WITNESS: At that -- after listening to the
15 recording I remember Mr. Pickard -- I have a door,
16 and I was on the phone. I have like a swinging
17 door.

18 JUDGE RILEY: Okay.

19 THE WITNESS: I was on one side of the door. He
20 was on the other side of the door. And you could
21 hear what was on the phone, and he was telling me
22 what to say. There was a number that he had to get

1 from this person to initiate any paperwork coming to
2 me.

3 JUDGE RILEY: Okay.

4 THE WITNESS: And he was, you know, You tell
5 them this, and you tell them that. I did have to
6 send my son home to get my safe, to get the -- my
7 gas bill, my hand-held safe, because all my gas
8 bills were in that.

9 JUDGE RILEY: Is it your testimony then that you
10 received a confirmation call from U.S. Energy, the
11 conversation that is recorded on this compact disk,
12 you got that call while Mr. Pickard was still there?

13 THE WITNESS: Yes. He was standing -- he made
14 the phone call.

15 JUDGE RILEY: I see.

16 Now, did he do this on a cell phone,
17 or was it --

18 THE WITNESS: He did have a cell phone with him.

19 JUDGE RILEY: All right.

20 THE WITNESS: He did speak to somebody on his
21 cell phone. And then somebody called back at my
22 phone.

1 JUDGE RILEY: I see.

2 THE WITNESS: When I gave him my phone number,
3 that's when he put it on this paper.

4 JUDGE RILEY: All right. Did you understand at
5 that time that you were being recorded?

6 THE WITNESS: No, I didn't.

7 JUDGE RILEY: No one told you that you were
8 being recorded?

9 THE WITNESS: No. He told me that they needed
10 this number, this 3123 number, CSR name, ID number
11 (indicating).

12 JUDGE RILEY: Where are you pointing?

13 THE WITNESS: The U.S. Energy Customer
14 Registration, the yellow paper where my signature is
15 on.

16 JUDGE RILEY: Okay. I see that, but I don't see
17 a number.

18 THE WITNESS: There is a -- down by the E-mail
19 address, Business Tax ID Number, off to the
20 right-hand side, there's a CSR --

21 JUDGE RILEY: It says, CSR Name Sarika, ID
22 No. 3123.

1 THE WITNESS: Right.

2 JUDGE RILEY: Okay.

3 THE WITNESS: He had to get that number, he

4 said, and that's how I would get the paperwork.

5 JUDGE RILEY: All right. Did he write that

6 number down on this document at this time?

7 THE WITNESS: Yes.

8 JUDGE RILEY: Okay. Was that the only other

9 thing that was down there besides your signature?

10 THE WITNESS: He had wrote my phone number down.

11 JUDGE RILEY: All right.

12 THE WITNESS: And my son at the time, who was --

13 had run home -- my youngest son had run home to get

14 my safe.

15 JUDGE RILEY: All right.

16 THE WITNESS: So, that the Nicor account number,

17 they needed -- the person on the phone, they needed

18 the Nicor account number.

19 JUDGE RILEY: All right. But it's your

20 testimony that you were absolutely unaware that you

21 were being recorded at the time you received that

22 phone call from --

1 THE WITNESS: Not that I recall.

2 JUDGE RILEY: Okay. You do not recollect being

3 told that you were going to be recorded when that

4 phone --

5 THE WITNESS: No, I don't.

6 JUDGE RILEY: -- call came to your

7 establishment.

8 THE WITNESS: No.

9 JUDGE RILEY: Counsel, I'm going to hold off on

10 this. And I notice the other exhibits, J, K, L and

11 M, I'm going to hold off on any rulings regarding

12 admissibility for the time being.

13 MR. HAYWARD: All right.

14 JUDGE RILEY: We'll get back to it. We'll

15 revisit it.

16 I realize the procedure here has been

17 a little bit choppy, but did you have any additional

18 cross-examination for Ms. Alderson?

19 MR. HAYWARD: Just a moment, sir.

20 Q Mrs. Alderson, in your complaint you

21 indicated that on July 5th, 2005, that you had --

22 that you cancelled the contract, is that correct,

1 the second paragraph of your typed complaint?

2 A Before my husband had called to cancel the
3 contract, I, myself, had called.

4 Q Okay.

5 A The reason why I did call was because I was
6 so upset. That is when we had received the
7 paperwork in the mail. And when I had looked
8 through the customer Agreement here, and realized
9 that in actuality signed a contract and I had gone
10 through your pamphlet, the one with the money bag on
11 the front, it had stated on the very last paragraph,
12 If this Agreement is unilaterally cancelled before
13 the first gas flow, USESC's anticipates date of gas
14 flow, which will be approximately 15 to 90 days
15 after signing, I had been under the understanding
16 that I can cancel it before the first gas flow,
17 after speaking to Nicor.

18 And I had called to cancel the
19 Agreement because I was not under the impression
20 that we had signed a contract. And that's when I
21 was threatened with breach of contract, that my gas
22 supply would be shut off. I was told that I'd

1 probably lose my business.

2 Q Now, the last sentence of that second
3 paragraph, you indicated that, As months went by we
4 received higher and higher natural gas charges.

5 A Right. Okay.

6 Q Now, would you agree that the bills that
7 you incurred on your natural gas prices from
8 U.S. Energy were for a constant rate of 87.5 cents
9 per therm?

10 A I didn't know what our per therm rate was.

11 Q Even though we had indicated as such on the
12 registration form that you signed.

13 A On the registration form that I had signed,
14 I was under the impression I was signing for
15 paperwork.

16 MR. HAYWARD: That's all I have at this time.

17 JUDGE RILEY: All right. Thank you very much.

18 Thank you, Ms. Alderson. Again, I may
19 come back with some questions subsequently, but for
20 now, your testimony is what it is.

21 (Witness excused.)

22 JUDGE RILEY: What I want to do is look at some

1 of the documentation you've got.

2 What I would ask you, I'm sorry, is
3 whether or not any of the documents that you have
4 there, you would like to offer into evidence, any of
5 the bills, any of the --

6 MS. ALDERSON: Yes, our bills. I mean, we have
7 the June, July, August when they started -- August
8 when they were actually on our bill.

9 JUDGE RILEY: When U.S. Energy first appeared,
10 is that correct?

11 MS. ALDERSON: Right, when U.S. Energy first
12 appeared. And January when we cancelled -- in
13 actuality, it was in December when I cancelled
14 because January is when I had filed an informal
15 complaint, after I received the January bill -- or
16 December bill and seen that U.S. Energy was still on
17 our bill.

18 JUDGE RILEY: Okay. But to clarify, that was
19 December of '06 is when you called to cancel.

20 MS. ALDERSON: Uh-hum.

21 JUDGE RILEY: And then in January of '07 you
22 continued to see U.S. Energy as your gas supplier.

1 MS. ALDERSON: Yes.

2 JUDGE RILEY: All right. And you have the bills
3 that reflect that?

4 MS. ALDERSON: Yes.

5 JUDGE RILEY: Okay. Why don't you get those
6 sorted out.

7 MS. ALDERSON: Okay.

8 MR. ALDERSON: You want all of our bills through
9 U.S. Energy, your Honor?

10 JUDGE RILEY: Well, actually, the call to what
11 you submit is yours, but at a certain point
12 U.S. Energy appeared on those bills as your gas
13 supplier --

14 MS. ALDERSON: Right.

15 JUDGE RILEY: -- and continued as your gas
16 supplier to a certain period of time and then
17 suddenly they disappeared -- and eventually they
18 disappeared as your gas supplier.

19 MR. ALDERSON: Yes.

20 JUDGE RILEY: Whatever would reflect that?

21 MS. ALDERSON: Okay.

22 MR. ALDERSON: U.S. Energy being our supplier.

1 JUDGE RILEY: Right.

2 Let's go off the record.

3 (Whereupon, a discussion

4 was had off the record.)

5 JUDGE RILEY: Back on the record.

6 Did you get your bills lined up?

7 MS. ALDERSON: Uh-hum.

8 JUDGE RILEY: We'll have to get Photostats of

9 these and distribute copies.

10 MR. ALDERSON: As I've got them clipped as per

11 the year. There's 2005, 2006, 2007. I'd also like

12 to enter this, which shows the credit on our stub,

13 and where we never received any other kind of final

14 bill after that.

15 JUDGE RILEY: All right.

16 MR. ALDERSON: And I was, again, under the

17 impression that that was an overall credit for us.

18 JUDGE RILEY: 2005, 2006, 2007 and then there's

19 the statement from Nicor reflecting a \$1,556.58

20 credit, and for lack of any other identification,

21 I'll call it the bill from June 8th, again, 2007.

22 Counsel, do you want to take a look at

1 these?

2 MS. ALDERSON: And the transcripts from John
3 from the ICC.

4 JUDGE RILEY: Hold on to those.

5 Do you want to take a look at these
6 (indicating)?

7 MR. HAYWARD: Yes, please.

8 For clarification sake, are these the
9 bills from the period during which U.S. Energy
10 was --

11 JUDGE RILEY: It's my understanding, yes, that
12 these are the bills that reflect when U.S. Energy
13 became the supplier and when they ceased to become a
14 supplier.

15 MR. HAYWARD: I see.

16 JUDGE RILEY: And I would ask Mr. Alderson.
17 With regard to the handwritten notations that are on
18 those bills, were they made by you or by someone --

19 MR. ALDERSON: By me. Some of them might just
20 appear as little crib notes for my own information.

21 JUDGE RILEY: In other words, they would have no
22 relevance to the Administrative Law Judge, then.

1 MR. ALDERSON: No.

2 Anything written on there by pen is
3 mine, most likely mine.

4 JUDGE RILEY: Counsel, do you have any objection
5 to the admission? I'm going to mark the bills for
6 2005, 2006 and 2007, just generally, as
7 Complainant's Group Exhibit 1.

8 MR. HAYWARD: We have no objection.

9 JUDGE RILEY: And with regard to the bill
10 containing the \$1,556.58 credit, Complainant's
11 Exhibit 2, do you have any objection?

12 MR. HAYWARD: We would object that it indicates
13 a credit.

14 JUDGE RILEY: I'm sorry?

15 MR. HAYWARD: We would object that for purposes
16 of U.S. Energy's -- any obligations towards
17 U.S. Energy that it reflects a credit of any kind.

18 JUDGE RILEY: I'm not sure I understand the
19 objection.

20 You object that it is being offered as
21 evidence that U.S. Energy --

22 MR. HAYWARD: That U.S. Energy offered

1 Petitioners any sort of credit for their supply
2 costs.

3 JUDGE RILEY: All right. The only thing I would
4 say then, their testimony is what it is. This is
5 strictly their interpretation.

6 MR. HAYWARD: Yes, sir.

7 JUDGE RILEY: So, I'll admit it for that
8 purpose. It's certainly not conclusive as to what
9 it states.

10 And with regard to those transcripts
11 from Mr. Schaub, do you know who prepared those?

12 MS. ALDERSON: It's notes he typed into his
13 computer. It basically reflects when I had called
14 him. When I had filed an informal complaint. The
15 responses to the numerous times he had contacted
16 U.S. Energy about the informal complaint and no
17 response. And how he did contact them, you know, by
18 mail or Internet.

19 JUDGE RILEY: All right. Do you know
20 Mr. Schaub's position with -- he's employed by the
21 Illinois Commerce Commission?

22 MS. ALDERSON: Yes. And he handles complaints

1 with gas companies.

2 JUDGE RILEY: All right. I'm marking those as
3 Complainant's Exhibit 3.

4 Counsel, do you have any objection to
5 the admission of this?

6 MR. HAYWARD: I've not had a chance to examine
7 them, sir, no.

8 JUDGE RILEY: Could we get a copy over to
9 Counsel so he can take a look at it?

10 Just hand that to the attorney,
11 please.

12 MS. ALDERSON: (Indicating.)

13 MR. HAYWARD: It's my understanding that there
14 were no sort of proceedings under this informal
15 complaint or any sort of resolution?

16 JUDGE RILEY: I don't know. I can't say one way
17 or the other.

18 Do we --

19 MS. ALDERSON: It was closed as --

20 MR. ALDERSON: Unresponsive.

21 MS. ALDERSON: -- unresponsive. Because there
22 was no response from the Company.

1 MR. HAYWARD: Your Honor, I have no objection as
2 these notes represent to be Mr. Schaub's notes. But
3 I apologize I'm at a bit of disadvantage here. I
4 don't think we were retained as Counsel until July
5 of this year. So, I've not been privy to any of
6 these prior proceedings.

7 JUDGE RILEY: I'm sorry, I've lost the threat of
8 the last part of that.

9 MR. HAYWARD: We were never retained as Counsel
10 until July of this year.

11 JUDGE RILEY: Right.

12 MR. HAYWARD: Therefore, I have not seen any
13 sort of record of these prior proceedings at all.

14 JUDGE RILEY: Right. Okay.

15 MR. HAYWARD: Until the filing of Complainant's
16 formal complaint.

17 JUDGE RILEY: Okay.

18 And then you're objecting to admission
19 of these notes?

20 MR. HAYWARD: I would say it's conditional, sir.
21 I apologize, I never had a chance to see them,
22 nor -- I'm willing to stipulate to their -- no

1 objection, sir.

2 JUDGE RILEY: No objection to them? All right.

3 Let the record reflect that this is a
4 six-page document including the cover page, a faxed
5 cover page, from the Illinois Commerce Commission,
6 it's on Illinois Commerce Commission letterhead, to
7 Virginia Alderson from John Schaub, containing phone
8 numbers and the date, October 9, I think that's
9 yesterday's date.

10 MS. ALDERSON: Uh-hum.

11 JUDGE RILEY: And the date October 9, 2007,
12 appears on the faxed pages up at the top.

13 And, Ms. Alderson, it is your
14 understanding that this was faxed to you by
15 Mr. Schaub. You spoke to him yesterday?

16 MS. ALDERSON: Yes, I did -- no, I spoke to one
17 of the women in his office. He had left a message
18 for me on my answering machine yesterday that this
19 paperwork had been returned as no postal reciprocal.
20 So, I had left him a fax number so they could fax
21 this to me.

22 JUDGE RILEY: So, he was unable to get this to

1 you by regular mail.

2 MS. ALDERSON: Right. So, he faxed it to me
3 yesterday.

4 JUDGE RILEY: So, you called back and asked them
5 to fax, and they faxed it to you.

6 MS. ALDERSON: Well, he received it back and he
7 was -- and he knew that I needed this for today.

8 JUDGE RILEY: So, he just voluntarily faxed it
9 to you yesterday.

10 MS. ALDERSON: Yes.

11 JUDGE RILEY: All right then. This will
12 simplify things later on. But, yes, then, without
13 objection, then I will admit -- I'm marking this as
14 Complainant's Group Exhibit 3, is admitted into
15 evidence.

16 And again, we're going to need three
17 copies of this, also.

18 MS. ALDERSON: Okay.

19 JUDGE RILEY: And that --

20 MR. ALDERSON: Yes, sir, our apologies, but, as
21 I say, we just received it yesterday.

22 JUDGE RILEY: Okay. That's fine.

1 (Whereupon, Complainant's
2 Group Exhibit 1, Exhibit 2
3 and Group Exhibit 3 were
4 admitted into evidence.)
5 JUDGE RILEY: And that complete's Complaint's
6 case in chief.
7 Counsel, did you want to now call a
8 witness on behalf of the Company?
9 MR. HAYWARD: Yes. I would like to call
10 Mr. Mike Rickard.
11 JUDGE RILEY: Good morning, Mr. Rickard.
12 MR. RICKARD: Good morning.
13 (Witness sworn.)
14 JUDGE RILEY: Please proceed, Counsel.
15 MIKE RICKARD,
16 called as a witness herein, and after having been
17 first duly sworn, was examined and testified as
18 follows:
19 DIRECT EXAMINATION
20 BY
21 MR. HAYWARD:
22 Q Thank you for coming in today,

1 Mr. Rickard. Thank you for being so patient.

2 Now, you're an agent for U.S. Energy,

3 is that correct?

4 A Yes.

5 Q So you conduct sales calls?

6 A Yes.

7 Q Now, were you working in that capacity on

8 June 28th, 2005?

9 A Working here in Sheridan, is that what

10 you're asking?

11 Q Yes.

12 A I don't recall, but obviously, if I filled

13 out the paperwork I had to have been, so. . .

14 Q You have a copy of the contract in front of

15 you.

16 A Yes.

17 Q Is that a true and accurate copy of your

18 signature, as best you can recall?

19 A Of my signature?

20 Q Yeah, at the bottom.

21 A Yes. No one could make it like that.

22 Q So, you visited Petitioner's business on

1 that date.

2 A Yes.

3 Q And you indicated that you were there on
4 behalf of U.S. Energy Savings Corp.?

5 A Correct.

6 Q You never made any sort of representation
7 that you were there on behalf of any government
8 entity at all?

9 A No, U.S. Energy Savings.

10 Q Okay.

11 A When they ask, we say we're a gas supplier.

12 THE REPORTER: Could you spell your last name,
13 please.

14 THE WITNESS: It's R-i-c-k-a-r-d. It's Rickard.
15 I heard it pronounced a couple different ways.

16 MR. HAYWARD: Q Now, you've been conducting
17 sales calls like this for, at least, the last two,
18 three years or so?

19 A About three and a half years. Three, three
20 and a half years.

21 Q Now, to the best of your recollection,
22 could you just give us some idea of what your sales

1 presentation was to Mrs. Alderson on this day, or
2 any other customer you might have been serving in
3 that market during that time?

4 A Like, actually, do my presentation, or
5 explain how it works?

6 MR. HAYWARD: Would the Court mind if the
7 gentleman --

8 JUDGE RILEY: No, whatever is the most --
9 whatever is the clearest way of explaining how you
10 approached --

11 THE WITNESS: Okay, I guess I'll just -- just to
12 clarify. You know, I am in a different market right
13 now. I've been in a different market for over a
14 year, which -- meaning, we're marketing in Indiana,
15 NIPSCO, so it's a different governing body, I'd
16 guess you'd say. It's not a Commerce Commission,
17 NIPSCO. They have different rules and regulations.
18 So, we do it slightly different there. So, I'm
19 going to do the best that I can.

20 JUDGE RILEY: That's all --

21 THE WITNESS: I haven't done that approach --
22 that sales pitch or whatever, for about a year or

1 so.

2 JUDGE RILEY: As well as you can reconstruct it.

3 THE WITNESS: So, if I don't remember something,
4 it would just be --

5 JUDGE RILEY: Go ahead.

6 MR. HAYWARD: Q If you would, Mr. Rickard,
7 please go over what your sales presentation would
8 have been, to the best of your recollection.

9 A Can I stand up?

10 JUDGE RILEY: Go ahead. However you're most
11 comfortable. And however you can most accurately
12 depict what you said, that's fine.

13 THE WITNESS: Well, you know, basically, the
14 very first thing that I would do when I walk into a
15 business, first up, I'd be wearing a hat. I mean,
16 this is July, I'd be wearing a pair of shorts. You
17 know, be wearing my badge, you know, just like this
18 (indicating), and this, without the shirt, just so
19 you understand what I look like.

20 JUDGE RILEY: All right.

21 THE WITNESS: U.S. Energy logos all over the
22 place, U.S. Energy Savings.

1 And the very first thing I do would be
2 walk into the business, and I would say, you know,
3 Hi, it's Mike with U.S. Energy Savings. We're just
4 here today to see if the gas account qualifies for a
5 rate protection. To see if you qualify for a rate
6 protection we need to check a copy of your recent
7 gas bill. So, you know, I'd point to what the gas
8 bill looked like, or whatever, so that she knew, or
9 he knew when they would go to get it, what it looks
10 like.

11 Then at that time, I then I would
12 check the gas bill. I would ask them like some
13 qualifying questions. You know, like if they're
14 currently paying on time, you know, things like
15 that. Because if they're -- if they have like a
16 large balanced owed or something, you know, they
17 can't qualify for the program. If they're on budget
18 billing, just things like that.

19 And then at that time I would tell
20 them if the account qualifies. And what that means
21 is that they qualify for the five-year fixed price
22 on their gas account. They would still continue to

1 receive their same gas bills from Nicor and still
2 would call them for all questions and pay them the
3 same way.

4 And then I'll, basically, just go
5 into, you know, just how I would need her name, you
6 know, the business phone number. If they have a
7 business card, I'll ask for a business card, because
8 that kind of sums up what we need, other than, you
9 know, having the bill.

10 Then I proceed to fill out the
11 registration form. And I usually tell the customer,
12 which I believe she said there were customers in
13 there, whatever, we kind of like to -- especially if
14 it's a business owner, they have a million other
15 things going on. Just give me a minute while I take
16 care of this, whatever. Let them go back to work,
17 or whatever, dealing with customers. At that time
18 I'll fill out the registration form.

19 And then I'll come back to the
20 customer and I'll have -- I usually have a
21 clipboard, and I'll have this actually on the
22 clipboard, the contract. And then I'll point to

1 them and say, This is your five-year fixed price
2 agreement. You know, then I'll point out, you know,
3 that, you know, this says -- what is it, 87.5 cents.
4 Yeah, this is saying that you're protected for
5 87.5 cents. And I'll just, basically, kind
6 reiterate everything I just went through.

7 And then I'll tell them that, we'll
8 need their -- they have it done here now, but that
9 we'll need their signature, okay, here, and this
10 protects them at the, you know, five-year, 87.5.

11 That's pretty much it. I mean, I
12 don't really have -- this is what it looked like at
13 the time. And then I leave.

14 You know what, I'm not 100 percent
15 sure, but then inside the packet that we give them,
16 usually what I'll do is, I'll point out a couple of
17 the, you know, things, like, This is an example of
18 what the fixed price is compared to the, you know,
19 variable market price. So they understand more of
20 what it is.

21 They go through, like, some of the
22 frequently asked questions. And these are things

1 that I'll always point out, especially if they've
2 asked me that question, I just -- because all of our
3 stuff is scripted. I do it the same way for -- I
4 mean, I've done it the same way for tens of
5 thousands of customers. It doesn't change. We
6 teach the same thing, you know, to every agent, at
7 that time, for Illinois. And that's for Illinois,
8 because Indiana would be different.

9 Pretty much if a customer has a
10 question, everything is scripted, and you can,
11 basically, point to the answers right here. They
12 are all on the back of the pamphlet that we give
13 them. There's really -- that's pretty much it. I
14 don't know how else I should explain it, but. . .

15 MR. HAYWARD: I think that'll suffice just fine.

16 Q So, to the best of your recollection, that
17 was the presentation you gave to --

18 A Yeah. It was kind of choppy, but it's been
19 so long since I've done it in Illinois.

20 Q I understand.

21 And now you said that you filled out
22 the lower half of the paperwork, and then presented

1 it to Mrs. Alderson, is that correct?

2 A Yes, just normal proceeding.

3 Q And you made clear that it was a
4 registration enrollment form in U.S. Energy Savings
5 Corp., correct?

6 A Yeah, either say "contract" or "agreement."

7 Q And now the other pages that are attached
8 to that, you provided her with copies of those, as
9 well?

10 A Yeah. From what I remember, the way that I
11 would do it then -- I mean, now, I don't do it too
12 much differently. But, usually I'll take the --
13 I'll take this form, okay, and I'll take the -- I
14 don't have the pamphlet, usually would fold like a
15 book. It's like two pages that fold together
16 (indicating). And I would basically put that over
17 this and then I would just staple it on there, you
18 know (indicating).

19 Q Now, this form was in triplicate carbon --
20 carbon copies of it?

21 A Yeah, I believe that's how -- I mean, they
22 have three forms now, but they, at least, had two

1 forms back then. They may have had three. But,
2 yeah, it was definitely a carbon because that was,
3 you know. . .

4 Q So, you left a copy of this with the
5 customer at your sales call?

6 A Yes. If we don't, we get fired or get in
7 big trouble.

8 Q Now, during anytime during your
9 conversations, to the best of your recollection, did
10 you ever affirmatively indicate that U.S. Energy's
11 rates would definitely be lower than Nicor's?

12 A No. The whole thing is, that is obviously
13 a very common question whether, you know, gas prices
14 are going to go up, or whatever. If a customer
15 sincerely thinks that gas prices are going to go
16 down -- I mean, I tell them, You know, if you
17 honestly think they're going to go down, you know, I
18 would not recommend doing this. And, you know, that
19 will basically tell you one way or the other, you
20 know.

21 Q Now, to the best of your recollection, you
22 represented to Mrs. Alderson that they would be

1 receiving a rate of 87.5 cents per therm over a
2 period of five years.

3 A Yes, correct. And I believe the way we did
4 it then, I would actually explain that twice. The
5 first time would be that I would tell them that --
6 the 87.5 would be the time where they qualified,
7 they're protected at a fixed price of 87.5 cents per
8 therm over the next five years.

9 And the next time would be, you know,
10 when I would put the Agreement in front of them to
11 sign it, that would be a second time.

12 Q And she seemed to understand that those
13 were the terms of this Agreement?

14 A Yes.

15 Q Now, you never -- did you ever represent to
16 her that she would have to sign this form before she
17 could get any further information about this program
18 at all?

19 A No. I was actually trying to figure out
20 what she was talking about. The only thing -- the
21 only piece of paperwork that I talk about them
22 getting is they just get a letter from Nicor with

1 our name in the middle, which is from what I can
2 remember is how that was at the time, saying whether
3 they're accepted or not. And that doesn't say
4 anything -- that doesn't explain anything. The only
5 paperwork that I would -- because I believe they
6 said that I was going to give them paperwork, this
7 is it, this is all I have, would be this, this and
8 the contract, that's it (indicating). I didn't have
9 anything else to give them.

10 Q And you did leave them a copy of that that
11 day?

12 A Yes. Yes. Stapled this, this with the
13 contract inside that, stapled in the corner
14 (indicating).

15 Q Now, for purposes of -- Mrs. Alderson
16 indicated earlier that there was a verification call
17 that took place after she filled out this paperwork,
18 is that correct?

19 A Yes.

20 Q To the best of your recollection, the call
21 took place after you --

22 A It has to take place. There's no other

1 way.

2 MR. HAYWARD: If I could, for purposes of
3 refreshing the witness' recollection, your Honor, I
4 would request that I be allowed to play the
5 confirmation call at this time.

6 JUDGE RILEY: Is there any objection to Counsel
7 playing the verification call?

8 Let me ask again. You both have
9 listened to this tape -- to this recording?

10 MR. ALDERSON: Yes.

11 MS. ALDERSON: Yes.

12 JUDGE RILEY: Okay. Do you have any objection
13 to Counsel playing it here? I think it might help
14 clear things up. Maybe it will be a little bit
15 clearer to you if you heard it on his medium.

16 MR. ALDERSON: No objection.

17 JUDGE RILEY: All right. Go ahead, Counsel.

18 MR. HAYWARD: I apologize if the volume is not
19 sufficient. I have it turned up as high as I can.

20 JUDGE RILEY: Just for purposes of
21 clarification, this is Defendant's Exhibit J?

22 MR. HAYWARD: Yes, sir.

1 (Whereupon, the following
2 is a tape recording of
3 a verification call.)
4 "MIKE RICKARD: Whom am I speaking to?
5 SARIKA: Sarika.
6 MIKE RICKARD: Hi, Sarika. This is Mike
7 Rickard, Agent Badge No. 72233, calling for one
8 commercial FPRC.
9 SARIKA: How are you today?
10 MIKE RICKARD: Very hot."
11 JUDGE RILEY: Let's stop right here. The court
12 reporter can't understand.
13 MR. HAYWARD: I apologize, your Honor, I cannot
14 get this any louder.
15 (Short pause.)
16 JUDGE RILEY: Take it down as well as you can.
17 "SARIKA: Thank you for calling
18 U.S. Energy Savings Corporation. My name is
19 Sarika. May I have the account number, please.
20 "MIKE RICKARD: Yeah. And whom am I
21 speaking to?
22 SARIKA: Sarika.

1 MIKE RICKARD: Hi, Sarika. This is Mike
2 Rickard, Agent Badge No. 72233, calling for one
3 commercial FPRC.
4 SARIKA: How are you today?
5 MIKE RICKARD: Very hot.
6 SARIKA: It's extremely hot there?
7 MIKE RICKARD: Yes, very. Just be glad you
8 work inside.
9 SARIKA: It's commercial, right?
10 MIKE RICKARD: Yes.
11 SARIKA: And the name of the business is?
12 MIKE RICKARD: As it appears on the bill,
13 G-i-n-n-g-e-e-'s, Ginngee's.
14 SARIKA: I'm sorry. Give me one moment.
15 That's G-i-n-n- -- and then?
16 MIKE RICKARD: -g-e-e-'s
17 SARIKA: Apostrophe s.
18 MIKE RICKARD: Sewing --
19 SARIKA: Sewing --
20 MIKE RICKARD: -- Alterations and Laundry.
21 SARIKA: -- Alterations and Laundry.
22 MIKE RICKARD: Yeah.

1 SARIKA: And the name of the person?

2 MIKE RICKARD: Speaking to the owner here,

3 first name Virginia.

4 SARIKA: Virginia. The last name?

5 MIKE RICKARD: A-l-d-e-r-s-o-n.

6 SARIKA: Is Virginia the owner?

7 MIKE RICKARD: Yes.

8 SARIKA: Can I have the phone number?

9 MIKE RICKARD: Yeah. It should show up as

10 815-496-9122.

11 SARIKA: Can I please speak with her

12 to verify the information?

13 MIKE RICKARD: Yeah, hold on one second.

14 Sarika, the CSR, is just going to

15 verify the account number with you, verify the

16 Nicor account number.

17 MS. ALDERSON: Okay.

18 Hello.

19 SARIKA: Hello. Is that Virginia Alderson?

20 MS. ALDERSON: Yes.

21 SARIKA: Good Evening. Hi Virginia. My

22 name is Sarika and I'm with U.S. Energy Savings

1 Corporation. I just need to ask you a couple of
2 questions in order to provide you with a fixed
3 price reservation code for the agreement you
4 just signed. Just to let you know our calls are
5 recorded for quality purposes. May I please
6 have your first and last name?

7 MS. ALDERSON: Virginia Alderson.

8 SARIKA: May I please have the name of the
9 business?

10 MS. ALDERSON: Ginnggee's Sewing Alterations
11 and Laundry.

12 SARIKA: And your title there?

13 MS. ALDERSON: Is owner.

14 SARIKA: May I please have your Nicor Gas
15 account number?

16 MS. ALDERSON: 6174604436.

17 SARIKA: And the name on the account is?

18 MS. ALDERSON: Ginnggee's Sewing Alterations
19 and Laundry.

20 SARIKA: Okay. Perfect. Now, in order for
21 your natural gas fixed price Agreement to take
22 affect, we will require your confirmation. Can

1 you please confirm your agreement by responding
2 "yes"?

3 MS. ALDERSON: Yes.

4 SARIKA: Perfect. Your enrollment has been
5 confirmed and you have secured your natural gas
6 rates for the next five years at the rate of
7 87.5 cents per therm. You should notice our
8 toll free number appear on your gas bill in
9 approximately 15 to 90 days and if you have any
10 questions, please feel free to give us a call
11 back.

12 MS. ALDERSON: Okay. We need your ID
13 number.

14 SARIKA: 3123.

15 MS. ALDERSON: 3123.

16 SARIKA: Okay. Thank you for your
17 assistance.

18 MS. ALDERSON: Thank you.

19 SARIKA: And choosing U.S. Energy Savings
20 Corporation.

21 May I please speak with the
22 account representative?

1 MS. ALDERSON: Okay, hold on.

2 MIKE RICKARD: Hello.

3 SARIKA: I have verify information.

4 A fixed price information code, E-N-0-7-1- --

5 MIKE RICKARD: Okay.

6 SARIKA: -- -1-9-0.

7 MIKE RICKARD: Okay. I'll be talking to

8 you soon.

9 SARIKA: Have a good day.

10 MIKE RICKARD: Take it easy.

11 SARIKA: Okay. Bye."

12 (End of tape recording.)

13 JUDGE RILEY: Counsel, please proceed.

14 MR. HAYWARD: Q Mr. Rickard, is that a true and

15 accurate representation of the telephone call you

16 placed to -- the woman's name, I believe, was

17 Sarika, on that date?

18 A Yes. That's me on the phone.

19 Q Did the customer -- did Ms. Alderson

20 indicate any sort of question or confusion as to

21 what was taking place or being asked of her on that

22 phone?

1 A It's just yeses and nos. She's doing it.
2 I'm not hearing any kind of problem, anything on the
3 phone calls.
4 Q But, you explained what the purpose of the
5 call was?
6 A Yeah.
7 Q And she didn't seem to have any questions
8 or doubts about --
9 A No.
10 Q -- what was happening.
11 A No. Actually, I don't remember really how
12 many questions I would ask the whole time, so. . .
13 MR. HAYWARD: I believe that's all I have for
14 this witness at this time.
15 JUDGE RILEY: All right. Thank you.
16 Beginning with Mr. Alderson. Do you
17 have any questions for Mr. Rickard?
18 MR. ALDERSON: No, I don't.
19 JUDGE RILEY: Ms. Alderson, do you have any
20 questions for Mr. Rickard?
21
22

1

2

CROSS-EXAMINATION

3

BY

4

MS. ALDERSON:

5

Q On this yellow contract, other than my

6

signature, whose handwriting is this?

7

A Is this the same copy of what I have?

8

Can I walk over there?

9

MR. HAYWARD: Sure.

10

JUDGE RILEY: Take a look at it.

11

THE WITNESS: Is this my handwriting?

12

MS. ALDERSON: Q Other than this (indicating),

13

this is my handwriting.

14

A All right.

15

Q Okay. This is my handwriting (indicating).

16

A Right. This is all my handwriting

17

(indicating).

18

Q When you come into a business, do you carry

19

more than one copy of all of your paperwork?

20

A Do I carry -- can you clarify that?

21

Q All of your pamphlets that you said were

22

given to me --

1 A Do I carry more than one?

2 Q Yes.

3 A Well, it depends on what time of day.

4 Sometimes I could be running short. Sometimes I --

5 I mean, most of the time I have as many as I could

6 fit in my clipboard.

7 Q Okay.

8 A But it depends on -- you know, there's also

9 times where I'm running low. But, I never walk into

10 a business without a contract, if that's what you're

11 asking. Because I don't know what you're talking

12 about by "paperwork," because there's two sets of

13 paperwork. There's the contract, and then there's

14 the pamphlet, so. . .

15 Q Your pamphlets.

16 A Okay. You're asking, do I ever not walk in

17 to a business?

18 Q Without your pamphlets. Without paperwork

19 to give to potential customers.

20 A I may have, but I've never not given a

21 customers one of those.

22 Q Do you bring any information to customers

1 other than the contract and the pamphlets?

2 A Do I bring any other information -- you
3 have to clarify that, as well.

4 Q Do you bring any paperwork to back up your
5 statements that you make to customers.

6 A I don't recall at that time what my
7 approach was.

8 Q If a customer does not -- a potential
9 customer does not -- in your sales pitch, if a
10 customer does not go with it, have you ever said, It
11 would be stupid not to?

12 A Never. Never. Never used that word.
13 Never call a customer stupid, ever.

14 MS. ALDERSON: That would be all.

15 JUDGE RILEY: Just a few questions of my own,
16 Mr. Rickard.

17 THE WITNESS: Sure.

18 EXAMINATION

19 BY

20 JUDGE RILEY:

21 Q When you obtained Ms. Alderson's signature
22 on the yellow contract, had you filled out the rest

1 of the form?

2 A Yeah, that's what I stated. I fill it out
3 before I go to the customer. I said, Just give me a
4 minute while I fill out your form. And then I come
5 back and go over the form with them and then I get
6 their signature.

7 Q So, it's your testimony that her signature
8 was the last thing that was placed on the contract
9 itself -- on the document itself.

10 A Well, the FPRC, which is the bottom, that's
11 placed on there after the phone call. That would be
12 the last thing on there.

13 Q What's the "FRPC"?

14 A It's on the very -- right underneath my
15 name in the bottom left-hand corner.

16 Q Oh, I see.

17 A That's the last thing placed on it.
18 Because after we do the procedures, we first fill
19 out the form, then we get the signature on the
20 contract, and then we do the phone call, and after
21 the phone call we write down the FPRC, which is on
22 the bottom, which is the code that we get from the

1 CSR on the phone.

2 Q Now, what is an "FPRC," if you know?

3 A Just Fixed Price Reservation Code. That
4 reserves the gas price.

5 Q Okay. And what's the "CSR"?

6 A "CSR" is -- do you want me to come over
7 there and point it out?

8 Q No. I've got it right here.

9 A That's the Customer Service Representative.

10 Q Okay. Those are the two things you don't
11 know at the time -- in other words, you fill out the
12 contract -- you fill out the document. You get the
13 customer's signature. And then you get the CSR name
14 and the FPRC.

15 A Yeah, usually -- well, I get the -- yeah,
16 you're right. So, I would get the -- because I
17 don't know whom I'm talking to before I talk to them
18 on the phone. So, yeah, I would get the Customer
19 Service Representative's name. And then, you know,
20 at that time, one of the things I notice is that the
21 customer would always get the ID number, you know,
22 because they want to make sure. So, I always would

1 tell them to get the ID number, so that they're
2 actually physically hearing it from the
3 Representative and I'm not just writing it down.
4 Then, the FPRC would be last.

5 Q Did you, at any time, represent to either
6 Mr. or Mrs. Alderson that you were a representative
7 of the federal government?

8 A No.

9 Q If you know, why did Respondent, if this
10 was a five-year contract, allow a switch back to
11 Nicor for gas supply prior to the end of the
12 five-year term?

13 A I'm sorry, could you repeat that?

14 Q This indicates that this was a five-year
15 contract beginning on June 28th, 2005.

16 A You're looking at this (indicating)?

17 Q Right.

18 A Okay. All right. Yes.

19 Q And the service, as I understand it, was
20 switched back to Nicor in -- around April of 2007.

21 A I have no idea.

22 Q You do not know why --

1 A I do not get involved in any of that.

2 Q All right. So, you have no idea why this
3 service would have switched back to Nicor prior to
4 the end of the five-year term of the contract?

5 A I guess I'm not -- I don't get involved in
6 anything after -- after I'm with a customer, I don't
7 get involved in anything with the customer ever
8 again. I never see the customer. I would have
9 no -- there's no way from any proceeding to have
10 heard what's happening.

11 Q Okay.

12 A That's all U.S. Energy. I don't have
13 anything to do with that.

14 Q Well, I thought you worked for U.S. Energy.

15 A Well, not -- I'm sorry, that's like a
16 different department. That would be, I guess,
17 customer service or whoever would handle that.

18 Q Okay.

19 A My job -- my sole and exclusive job is just
20 to come in there, fill out the registration form,
21 explain the program, you know, the FPRC call, make
22 sure the customer understands, and that's it. After

1 that, I don't know. I have no idea.

2 JUDGE RILEY: Counsel, do you have any redirect?

3 MR. HAYWARD: Just one redirect.

4 REDIRECT EXAMINATION

5 BY

6 MR. HAYWARD:

7 Q You indicated that you did fill out that

8 lower half of the registration form.

9 A Right.

10 Q And then presented it to Mrs. Alderson for

11 her signature.

12 A Right.

13 Q Did she object at all at that time or

14 express any sort of reservation to you?

15 A I don't recall. I don't recall. But, I

16 would, you know, do the same thing for every

17 customer.

18 MR. HAYWARD: Okay.

19 JUDGE RILEY: Ms. or Mr. Alderson, do you have

20 any recross?

21 MS. ALDERSON: No, sir.

22 JUDGE RILEY: All right. Fine.

1 Counsel, does that conclude the
2 witness' testimony?

3 MR. HAYWARD: If he could be excused, please.
4 Yes.

5 JUDGE RILEY: Okay. Thank you, Mr. Rickard.

6 (Witness excused.)

7 JUDGE RILEY: Do you have any other witnesses to
8 call?

9 MR. HAYWARD: No, sir, I don't.

10 JUDGE RILEY: Then, we have the matter of your
11 exhibits. And these were the items that were sent
12 to us.

13 What was Exhibit A?

14 MR. HAYWARD: Exhibit A was the Plaintiff's
15 complaint.

16 JUDGE RILEY: Oh, the complaint itself.

17 MR. HAYWARD: Yes.

18 JUDGE RILEY: Then, you have submitted to this
19 proceeding documents marked as Defendant's
20 Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M,
21 and N (sic). The exhibits up through Exhibit I, are
22 all documentary.

1 MR. HAYWARD: Yes.

2 JUDGE RILEY: Do the Complainants have any
3 objection to the admission of Documents A through I
4 into evidence?

5 MR. ALDERSON: A through I? That's all the
6 documentation -- no, no objections.

7 JUDGE RILEY: All right. Counsel, I trust
8 you're moving for those into evidence.

9 MR. HAYWARD: Yes, please.

10 JUDGE RILEY: Documents A through I are admitted
11 into evidence.

12 (Whereupon, Respondent's
13 Exhibits A through I were
14 admitted into evidence.)

15 JUDGE RILEY: And I've held these out
16 separately, Exhibits J, K, L, and M are CD --
17 compact disk recordings of various conversations
18 between the Respondent and the Complainant.

19 And again, have you been provided with
20 copies of all four of these?

21 MR. ALDERSON: Yes.

22 JUDGE RILEY: And did you listen to them?

1 MR. ALDERSON: Tried to.

2 JUDGE RILEY: Okay. Understanding that not all
3 mediums are efficient, were you able to get the gist
4 of what the conversations were on these recordings?

5 MS. ALDERSON: Somewhat.

6 MR. ALDERSON: Yes.

7 JUDGE RILEY: Do you have any objection to the
8 admission of any of these exhibits, J, K, L or M,
9 into evidence?

10 MS. ALDERSON: There are many missing, many
11 conversations with U.S. Energy.

12 JUDGE RILEY: I noticed that, but I think that's
13 an inherent problem with the disk itself, or with
14 whatever the -- with the telephone itself.

15 These were telephone conversations, is
16 that correct, Counsel?

17 MR. HAYWARD: Yes.

18 MR. ALDERSON: Some of the sound quality on them
19 are of poor nature. And there's certain areas on
20 the disks that were hard to listen to.

21 MS. ALDERSON: We were never privy to the
22 information that the other people were conversing

1 about.

2 JUDGE RILEY: I'm not 100 percent sure -- you
3 mean, if there was a conversation between two
4 employees of the Company?

5 MS. ALDERSON: Right.

6 MR. ALDERSON: Yes. I would have to object to
7 the disks.

8 JUDGE RILEY: Counsel, anything further?

9 MR. HAYWARD: No, sir.

10 JUDGE RILEY: All right. I was going to mention
11 this earlier is that I do have reservations about
12 tapes and transcripts of tapes and things like that.
13 There is a lack of ability of parties to
14 cross-examine, to fully understand of what was being
15 said.

16 In this case I've admitted
17 Mr. Schaub's transcript of his notes and there's
18 been no opportunity for Counsel to cross-examine
19 Mr. Schaub to what he put down there. And for that
20 reason, just to try to keep things more or less in
21 balance, I'm going to admit Exhibits J, K, L, and M
22 over your objections. And anything that doesn't

1 come on, obviously, would not be considered, and it
2 would go to the sufficiency of the exhibit itself.

3 (Whereupon, Respondent's
4 Exhibits J, K, L, and M
5 were admitted in evidence.)

6 JUDGE RILEY: Now, having dispensed with that,
7 do the parties want to submit closing briefs? If
8 you follow what I mean by "closing briefs." It's a
9 summation of your case and an argument as to why
10 your evidence should prevail over the Respondent's
11 and for the Respondent to summarize his case and why
12 his exhibits -- why his evidence should prevail over
13 yours, that's all that's involved.

14 MR. ALDERSON: Yes.

15 JUDGE RILEY: Would you?

16 MR. ALDERSON: Yes.

17 JUDGE RILEY: Okay. How much time do the
18 parties think that they would need to submit
19 something in writing?

20 MR. ALDERSON: In writing?

21 JUDGE RILEY: That's what a brief is.

22 MR. ALDERSON: I thought this was a verbal --

1 JUDGE RILEY: Counsel, what's your feeling?

2 MR. HAYWARD: I would be happy to share some of

3 my notes, but I would be leery of waiving any work

4 product privilege of any kind.

5 JUDGE RILEY: No, I understand. I don't want to

6 get into that under any circumstances.

7 MR. HAYWARD: And my handwriting is terrible,

8 your Honor.

9 MR. ALDERSON: If it's written, I think it would

10 take more than five minutes.

11 MS. ALDERSON: There's a lot in my statement

12 that I have written in the formal complaint.

13 JUDGE RILEY: Right. You would just rather make

14 the closing statement? I'm not following you. I

15 mean, do you not want to submit closing briefs,

16 written briefs -- a written brief?

17 MR. ALDERSON: I believe it would take longer

18 than five minutes.

19 JUDGE RILEY: Oh, definitely. Definitely. As a

20 matter of fact, it would take even longer than that

21 because you'd probably have to wait to get a copy of

22 the transcript, which would be two weeks itself.

1 MR. ALDERSON: Yes.

2 JUDGE RILEY: Read through the transcript
3 and -- Counsel, what's your feeling? Would you
4 object to just a closing statement?

5 MR. HAYWARD: No, sir.

6 JUDGE RILEY: Would you rather just make a
7 closing statement?

8 MR. ALDERSON: Yes, please.

9 JUDGE RILEY: I'll let you go first. Unless you
10 want a couple of minutes to get your thoughts
11 together.

12 MR. ALDERSON: No, thank you.

13 Your Honor, in summary, the reason why
14 we are here is that we feel we were wrongly
15 misrepresented by the supplier. He came in
16 explaining to us that -- how he could save us money
17 over competitors' rates, which was not the case.
18 And, again, when we tried to discontinue the
19 Agreement we were put off on that and never given a
20 reason.

21 Before we could get any response out
22 of the Defendant, we had to literally explain to

1 them that, We will not pay your gas bill. And that
2 is when they finally decided to come to us -- after
3 we had filed the complaint, then they responded to
4 us, and had stated that, We would waive any charges
5 and disconnection fees. That's what we were under
6 the impression they were going to do, and that was
7 never done, otherwise we would have never been here
8 today.

9 That's probably about the best
10 explanation I could give to you.

11 JUDGE RILEY: Okay. Does that conclude --

12 MR. ALDERSON: Yes.

13 JUDGE RILEY: Okay. Thank you.

14 Counsel.

15 MR. HAYWARD: Your Honor, Petitioners' main
16 contention here appears to be that U.S. Energy
17 somehow misrepresented to them that going with
18 U.S. Energy as their supplier would definitively
19 save them money on gas charges versus Nicor as their
20 current supplier. That representation was never
21 made. The only service that U.S. Energy offers is a
22 fixed rate of, in this instance, 87.5 cents per

1 therm over a period of five years, so that the
2 customer doesn't experience any fluctuation in any
3 sort of supply costs. That's evident from the face
4 of the contract that Mrs. Alderson signed. It's
5 also evident from continual mailings that
6 U.S. Energy had sent to the Aldersons over the term
7 of their service.

8 We do admit that Petitioners have
9 called and attempted to cancel their contract
10 before, but each time when they had been transferred
11 to someone who could effectuated that service for
12 them, they often hung up or was somehow
13 disconnected.

14 What the contract was here was for was
15 a fixed rate over a five-year term, and there's no
16 way to affirmatively show fraud in this instance
17 because Plaintiffs cancelled the contract before the
18 expiration of the term.

19 As the Court can see and as the
20 Petitioners can see from Defendant's Exhibit G,
21 Petitioners' rates were lower for a few months, for
22 a period of August 2005 to February 2006. And even

1 now that same comparison shows that had Petitioners
2 remained with Nicor, they would still be in debt to
3 Nicor of approximately \$900. As it stands now,
4 they're still in debt to U.S. Energy for \$1,556 in
5 supply costs.

6 Having not been privy to the
7 conversations that Mr. Alderson had with Grace, and
8 at the risk of divulging anything that might be
9 privileged, I would be willing to represent that
10 U.S. Energy never offered to waive those supply
11 costs, only the cancellation fees in terms of the
12 settlement offer. And that's very rare to waive the
13 entire obligation, that is, U.S. Energy needs to
14 recoup the cost it, itself, has incurred in
15 supplying these gas rates.

16 I believe that's all I have for now.

17 JUDGE RILEY: Thank you.

18 I want to go back to your exhibits
19 very quickly.

20 Were these all filed on our e-Docket
21 system? Were the exhibits that you submitted to us,
22 were these filed on the Commission's e-Docket

1 system?

2 MR. HAYWARD: No, sir.

3 JUDGE RILEY: All right. So, these aren't filed
4 on there, either, are they?

5 MR. HAYWARD: No, sir. I thought service to the
6 ALJ and to the Petitioners would be sufficient for
7 purposes of this hearing.

8 JUDGE RILEY: Okay. I'll have to make the
9 copies and send them.

10 And we have to get copies of yours.

11 MR. ALDERSON: The statements?

12 JUDGE RILEY: We can discuss that after we're
13 off the record.

14 If that concludes the closing remarks,
15 you having the burden of proof, you can get one more
16 shot of it, if you want to add anything further to
17 say, any further argument.

18 MR. ALDERSON: I would just like to say in
19 conclusion, after our service was terminated with
20 U.S. Energy and we were picked up by Nicor, we never
21 received a final bill from U.S. Energy on any
22 payments, anything that would have been owed to

1 them, never received anything.

2 JUDGE RILEY: Okay.

3 That being the case then, I will
4 direct the court reporter to mark this matter heard
5 and taken. And I'll endeavor to get a proposed
6 order out just as fast as possible, but I would note
7 that it's going to be two weeks or more before the
8 transcript is ready and I won't be able to proceed
9 on this until I have a copy of the transcript. But
10 I will move with speed after I get that.

11 Thank you very much.

12 MR. ALDERSON: Thank you.

13 MR. HAYWARD: Thank you.

14 HEARD AND TAKEN

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